

# REGISTER



## South Dakota Legislative Research Council

Volume 38

Monday, 8:00 a.m., March 19, 2012

### RULE-MAKING NOTICE:

For an agency that has new rule-making authority in legislation passed in the 2012 legislative session, the agency may begin the rule-making process before the legislation is effective. However the rules will not be effective before the July 1st effective date of the legislation. See SDCL § 1-26-4.4.

If an agency wants an effective date of July 1<sup>st</sup> for a rule, the formal rule-making requirements of: service of the proposed rules on the Legislative Research Council; notice of hearing to the newspapers; and the agency's rules hearing must be completed before May 24<sup>th</sup> because the Rules Review Committee is scheduled to meet May 29<sup>th</sup> to review the rules. The agency must file the rules in the Secretary of State's office on or before June 11<sup>th</sup> for an effective date of July 1<sup>st</sup>. If an agency's rule-making authority was repealed, any rule authorized by that statute is void unless the agency can cite another statute which authorizes the rule. The agency must go through the rule-making procedure to identify the new authority. If rule-making authority was transferred to another agency and the legislation did not specify the disposition of the rules, the rules of the first agency are the rules of the second agency until the rules are amended or repealed. See SDCL § 1-26-8.1.

**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

**Department of Agriculture: Division of Agricultural Services:** (March 13, 2012) intends to amend rules to require maintaining interstate

shipment of milk and milk products as determine by FDA Milk Safety Branch. The general authority for these rules, as cited by the department, is SDCL § 39-6-9.

A public hearing will be held at the Governor's Inn, 700 West Sioux Ave., Pierre, South Dakota, on April 11, 2012, at 1:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to the South Dakota Department of Agriculture, Division of Agricultural Services, 523 E. Capitol Avenue, Pierre, South Dakota 57501. Material sent by mail must reach the department by April 10, 2012, to be considered. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-4294 at least 48 hours before the hearing.

**Department of Agriculture: SD Weed & Pest Control Commission:** (March 13, 2012) intends to amend a rule to add oxeye daisy to the local noxious weed and declared pest list. The general authority for this rule, as cited by the department, is SDCL §§ 38-22-9 and 38-22-11.1.

A public hearing will be held the Governor's Inn, 700 West Sioux Ave., Pierre, South Dakota, on April 11, 2012, at 1:30 p.m. Copies of the proposed rule may be obtained from and written comments sent to the South Dakota Department of Agriculture, Division of Agricultural Services, Weed & Pest Program, 523 E. Capitol Avenue, Pierre, South Dakota 57501. Material sent by mail must reach the department by April 10, 2012, to be considered. Persons who have special needs for which the department can make arrangements are asked to call

(605) 773-3796 at least 48 hours before the hearing.

## FILINGS IN THE SECRETARY OF STATE'S OFFICE:

### Executive Order:

The Governor has signed **Executive Order 2012-05** dated March 12, 2012. This order declares that the offices for state government, within the executive branch, shall be administratively closed on Good Friday, April 6, 2012.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

## REMINDER OF HEARINGS SCHEDULED

3-22-2012	Transportation	Amend Tourist-Oriented Directional Signing-on Right of Way rules to prohibit tourist-oriented directional signage from being located within the corporate limits of a municipality; prohibit tourist-oriented directional signage for a business located within the corporate limits of a municipality; and provide specifications for the size, coloring, and design requirements for tourist-oriented directional signing; 38 SDR 147.
3-26-2012	Health: Board of Dentistry	Amend rules to remove obsolete provisions and references, update references, clarify existing rules relating to requirements of dentists and dental hygienists seeking licensure, clarify existing rules relating to foreign trained dentists and dental hygienists seek licensure, amend continuing education requirements to increase the number of hours of home study courses that can be claimed in a five year continuing education cycle, clarify cardiopulmonary resuscitation courses that are accepted, extend corporation renewal deadline, increase fees across licensee and registrant categories, and implement collaborative supervision rules; 38 SDR 139.
3-28-2012	Agriculture: State Brand Board	Adopt rules to increase the fee for replacing a duplicate brand certificate and increase the per head inspection fee for livestock ownership inspection; 38 SDR 147.
4-3-2012	Game, Fish and Parks	Amend a Park License rule to increase the daily fee for not displaying a valid park

		<p>entrance license from \$10 to \$15 in Custer State Park (fee remains \$10 per day in all other state parks) and allow the operator or registered owner of a vehicle to apply the entire amount of the cost assessed for not displaying a valid park entrance license toward the purchase of an annual park entrance license; amend a Black Hills Elk Hunting Season rule to adjust the number of licenses available for "any elk" and "antlerless elk" licenses and adjust the boundary of Unit 7 to include the area located within a line beginning at I-90 and Pleasant Valley Road, then east and south on Pleasant Valley Road to Tilford Road, then west on Tilford Road to I-90; amend a Custer State Park Elk Hunting Season (Any Elk) rule to adjust the number of licenses available; amend Custer State Park Deer Hunting Season rules to eliminate the 35 one-tag "muzzleloader antlerless whitetail deer licenses" in Unit CUD-CU3, and remove the language in existing rule which establishes a 300 foot no hunting zone along paved public access roadways in Custer State Park; amend an Archery Elk Hunting Season rule to adjust the number of licenses available for "any elk" and "antlerless elk" licenses, and adjust the boundary of Unit 7 to include the area located within a line beginning at I-90 and Pleasant Valley Road, then east and south on Pleasant Valley Road to Tilford Road, then west on Tilford Road to I-90, and eliminate the archery season for Unit 30A; amend a Custer State Park Late Archery Elk Hunting Season rule to reduce the number of "any elk" licenses which will close the Custer State Park late archery elk hunting season; amend a Black Hills Bighorn Sheep Hunting Season rule to reduce the number of licenses available in Unit 1; and amend a Prairie Elk Hunting Season rule to adjust the total number of licenses available for "any elk" and "antlerless elk" licenses, add Unit 27 (Fall River County) to include that portion of Fall River County south of the Cheyenne River and west of Highway 385 (Season dates: September 1-October 31), adjust the season dates for Unit 09A (portions of Butte and Lawrence Counties) from</p>
--	--	---

		September 1-October 31 to provide for a split season of September 15-October 31 and December 1-5, and adjust the season dates for Unit 30A (portions of Gregory County and portions of Boyd County, NE) for the 2012 season to September 29-October 28 and December 1-21, which will make the season dates coincide with the dates established by Nebraska for this shared elk hunting unit; 38 SDR 151.
4-11-2012	Agriculture: Division of Agricultural Services	Amend rules to require maintaining interstate shipment of milk and milk products as determine by FDA Milk Safety Branch; 38 SDR 155.
4-11-2012	Agriculture: SD Weed & Pest Control Commission	Amend a rule to add oxeye daisy to the local noxious weed and declared pest list; 38 SDR 155.

### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 3, 2012. The committee chair has set the following tentative meeting schedule for the 2012 interim: May 29, July 10, August 14, September 18, November 13, and December 18.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.